

## **REMARKS/ARGUMENTS**

Applicants wish to thank the Examiner for the careful review of the IDS, claims, specification, and drawings.

### **Specification**

Paragraphs [0058], [0077], [0079], [00121], and [00171] have been amended to correct editorial problems.

No new subject matter has been added.

### **Claims**

Claims 1 and 16 have been amended without the scopes of the claims being changed.

After entry of this amendment, claims 1-21 are pending

It is respectfully submitted that each and every feature recited in the pending claims is fully supported in the specification, drawings, and claims as filed. No new subject matter has been added.

### **Rejections under 35 USC § 112**

The Office Action argues that claims 1 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Office Action argues that is unclear as to the definition of the word “render”. The Office Action also argues that the term “potentially suitable derivative contracts” is a relative term which renders the claim indefinite.

Regarding the word “render”, according to the Merriam-Webster Dictionary ([www.merriam-webster.com/dictionary/render](http://www.merriam-webster.com/dictionary/render)), “to render” can mean “to cause to be or become”. Accordingly, in the original claims 1 and 16, “rendering... displayable” clearly means “causing... to be displayable”. Nevertheless, for facilitating examination, Applicants hereby replace “rendering... displayable” with “displaying...” in claims 1 and 16.

Regarding the term “potentially suitable derivative contracts”, in the original claim 1 the term “potentially suitable derivative contracts” is clearly defined as derivative contracts “that satisfy said contract requirements”. Nevertheless, for facilitating examination, Applicants hereby replace “a plurality of potentially suitable derivative contracts that satisfy said contract

requirements” with “a group of derivative contracts that satisfy said contract requirements” in claim 1.

It is respectfully submitted that each of the amended claims 1 and 16 is definite and particularly points out and distinctly claims the subject matter which Applicants regard as the invention. Accordingly, it is respectfully requested that the rejections under 35 U.S.C. 112 be removed.

### **Rejections under 35 USC § 103**

The Office Action argues that claims 1-4, 6-9, 14-16, and 19-21 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Nafeh et al (USPub. No. 2002/0069155), hereinafter “Nafeh”, in view of Haigh (“Hedging foreign currency, freight, and commodity futures portfolios--A note”, The Journal of Futures Markets, Hoboken: Dec 2002, Vol. 22, Iss. 12; pg. 1205).

The Office Action also argues that claim 5 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Nafeh in view of Haigh in further view of Tower (“Mega-ships drive freight's future”: [5 Edition], Journal of Commerce, New York, Oct 22, 1998, pg. 1B).

The Office Action also argues that claims 10 and 17 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Nafeh in view of Haigh in further view of Batchelor (“Transport futures to be traded on the internet; [London edition], Financial Times, London (UK): Sep 11, 1997, pg. 30).

The Office Action also argues that claims 11-13, and 18 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Nafeh in view of Haigh in further view of Scheer (USPub No. US 2002/0138358).

Applicants respectfully request reconsideration of the rejections.

It is respectfully submitted that each of independent claims 1 and 16 includes limitations that are not taught by the cited prior art references. For example, each of claims 1 and 16 requires the limitation/step of receiving capacity release data from a plurality of carriers, the capacity release data pertaining at least to two modes of transportation from air mode, sea mode, rail mode, and truck mode. Claim 1 also includes the limitation of selecting a subset of derivative contracts to satisfy a derivative purchase request, wherein the subset includes at least a

first derivative contract for a first mode of the two transportation modes and a second derivative contract for a second mode of the two transportation modes.

In contrast, the cited prior art references (including Nafeh and Haigh) do not teach receiving capacity release data from a plurality of carriers, and the cited referenced do not teach that received capacity release data pertaining at least to two modes of transportation from air mode, sea mode, rail mode, and truck mode.

The Office Action argues that Nafeh discloses “to view data and news related to activity within market” and that “Examiner notes viewing data and news related to activity within markets indicates receiving capacity release data as applied to Applicant's disclosure.” However, Nafeh (paragraph [0465]-[0466]) teaches data and news such as recent pertinent newsfeeds from commercial wire services, summary historical and background information on recent trading, price, volume activity on the contract, real time quotes for the best bid and offer for each contract in each outstanding series of the contract bundle, the expiration date for each outstanding series, the payout criterion for each contract, and the current rate, level, or value of the underlying. Nafeh does not teach capacity release data, Nafeh does not teach a plurality of carriers as sources of the capacity release data, Nafeh does not teach that the capacity release data pertains at least to two modes of transportation from air mode, sea mode, rail mode, and truck mode. Other cited references also do not teach the limitations.

As another example, each of claims 1 and 16 requires the limitations/step of bundling capacity releases in accordance with a geographic bundling criterion, thereby creating a plurality of available derivative contracts.

In contrast, the cited references (including Nafeh and Haigh) do not teach the limitations/step.

The Office Action argues that Nafeh notes geographic diversification (paragraph [0006]) and applies his invention to traders that are geographically dispersed (paragraph [0021]) and that Examiner interprets this application as Applicant's geographic bundling criterion. However, Nafeh in paragraph [0006] only mentions “geographic and risk type diversification” without mentioning “bundling capacity releases” as required in each of claims 1 and 16. Further, Nafeh in paragraph [0021] only teaches the need for real time communications capabilities necessary for market trading when traders are geographically dispersed without teaching bundling capacity releases in accordance with a geographic bundling criterion as required in claims 1 and 16.

As another example, each of claims 1 and 16 requires the limitations/step of simultaneously displaying forecast data pertaining to demand forecasts by (a plurality of) shippers between a first location and a second location.

In contrast, the cited references (including Nafeh and Haigh) do not teach the limitations/step.

The Office Action argues that Nafeh's Executive Summary Page also shows the expiration date for each outstanding series, the payout criterion for each contract, and the current rate, level, or value of the underlying and that Examiner interprets expiration dates, the payout criterion, and current values to be indicative of Applicant's rendering (displaying) user-specific forecast data. However, expiration dates, the payout criterion, and current values are not forecast data pertaining to demand forecasts by (a plurality of) shippers between a first location and a second location as required in each of claims 1 and 16.

For the aforementioned reasons and others, it is respectfully submitted that independent claims 1 and 16 are novel, non-obvious, and patentable over the cited arts of records, taken alone or in combination.

It is also respectfully submitted that claims 2-15 and 17-21 which depend from at least one of claims 1 and 16 also are novel, nonobvious, and patentable not only due to their dependence from at least one of the patentable parent claims 1 and 16 but also due to their recitations of independently patentable features.

For example, claims 11 and 18 include the limitations that the forecast data includes self-assessed qualitative ratings by the shippers and that the self-assessed qualitative ratings are performed using at least four of a set of criteria that includes demand, manufacturing readiness, manufacturing location, capacity, product, lane, and lane stability. In contrast, the cited references do not teach at least four of the recited criteria.

The Office Action argues that Scheer teaches expected consumption rate and deterministic demand data. However, consumption rate is not necessary demand, and deterministic data is not forecast. Therefore, Scheer does not teach at least four of the recited criteria.

Accordingly, it is respectfully requested that the rejections be removed.

No new limitation has been added. No new subject matter has been added.

**CONCLUSION**

In view of the discussion herein, Applicant(s) believe that all pending claims are allowable and respectfully request a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at 408-213-9540.

If additional petition is required to facilitate the entry of the present amendment, please consider this communication a petition therefore as well. The Commissioner is authorized to charge any fees beyond the amount enclosed which may be required, or to credit any overpayment, to Deposit Account No. 50-2284 (Order No. FFRT-P003).

Respectfully submitted,  
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